

Application No.: 10/723,367  
Reply to Office Action of: April 17, 2008

**REMARKS**

All claims in the case (22, 24-31, 33-40 and 42-48) stand allowed, except claims 40, and 42-48, which stand rejected under 35 U.S.C. § 101, urging that the claims could be interpreted as “purely software.” Reconsideration is respectfully requested in view of the following considerations.

At the outset, note that each of the rejected claims is directed specifically to “an apparatus.”

Furthermore, the claims are in a “means plus a statement of function” form under 35 U.S.C. § 112. Accordingly, interpretation of these claims under current law involves reference to the specification and the forms of the “means” supporting the claim elements. As the “means” clearly involves structure it is submitted that they could not be interpreted as “purely software.” Accordingly, reconsideration with the view toward allowance is respectfully requested.

Respectfully submitted,

BERRY & ASSOCIATES P.C.

Dated: August 6, 2008

By: /Byard G. Nilsson/  
Byard G. Nilsson  
Registration No. 17,350

**Cust. No. 49637**  
Berry & Associates, P.C.  
9255 Sunset Boulevard, Suite 810  
Los Angeles, CA 90069  
Phone: (310) 247-2860  
Fax: (310) 247-2864